IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.6157 OF 2007

IN

FIRST APPEAL NO.2758 OF 2007

...

Siddhivinayak Co.op.Hsg.
Society Ltd. ...Appellant

v/s.

M/s.S.D.Bhalerao Constructions
Pvt.Ltd. ...Respondent

...

Mr.Ajit Ram Pitale for the Appellant.
None for the Respondent.

...

CORAM: D.K.DESHMUKH &
V.M.KANADE, JJ.

DATED: 3RD DECEMBER, 2007

P.C.:

The learned Counsel appearing for the Appellant states that the Appellant should be given six months time to deposit the decretal amount.

In this view of the matter, therefore, in our opinion, following order would meet the ends of justice.

O R D E R

(i) Civil Application is granted in terms of prayer clause (d) subject to the condition that within six months from today, the Appellant deposits the complete decretal amount with due intimation to the Plaintiff in the trial court.

(ii) If the amount is not deposited within the aforesaid period, the civil application shall be treated as dismissed.

(iii) In case the amount is deposited as directed

above, the trial court shall permit the Plaintiff to withdraw the amount on filing an undertaking before the trial court undertaking to this court to bring back the amount, if so directed by this Court and on such terms and conditions as may be directed by this court and on furnishing a bank guarantee of a nationalised bank to the satisfaction of the trial court.

(iv) If the amount is not withdrawn within a period of twelve weeks from the date of deposit, the trial court shall invest the amount in fixed deposit in a nationalised bank during the pendency of the Appeal.

(v) We have disposed of this Civil Application without issuing notice to the original Plaintiff, who is Respondent in the Civil Application. Therefore, if the original Plaintiff feels aggrieved by this order he shall be at liberty to apply to this court for modification or cancellation of this order.

(vi) Civil Application disposed of.

(D.K.DESHMUKH, J.)

(V.M.KANADE, J.)